GOVERNMENT OF INDIA
LAW AND JUSTICE
LOK SABHA

STARRED QUESTION NO:346
ANSWERED ON:17.03.2006
RECOMMENDATIONS OF LAW COMMISSION
Chinta Mohan Dr.

Will the Minister of LAW AND JUSTICE be pleased to state:

(a) whether the Law Commission has observed that there would be a requirement of 300 additional Judges in High Courts and 6500 additional judges for the lower courts to dispose of all the pending cases in the next five years;

(b) if so, the facts thereof;

(c) whether the Government has assessed the financial implications to implement the recommendations of the Law Commission;

(d) if so, the details thereof; and

(e) the action proposed to be taken by the Government in this regard?

Answer

MINISTER OF THE STATE IN THE MINISTRY OF LAW AND JUSTICE (SHRI H. R.BHARDWAJ)

(a), (b), (c),(d) & (e) A statement is laid on the Table of the House.

Statement referred to in reply to parts (a),(b), (c),(d) & (e) of the Lok Sabha Starred Question No. 346 for answer on 17.3.2006

No such recommendation has been received from the Law Commission. However, judge strength of the High Courts is reviewed every three years. The last review was undertaken in the year 2003 when 94 new posts were recommended. As an interim review, 4 posts of Judges were approved for the Bombay High Court in 2005, making the total for increase of 98 posts. The next review is due in 2006 for which the High Courts have been requested to furnish data.

1.1 As per the guidelines, the required strength of permanent Judges in a High Court is worked out by dividing the average institution of main cases during the last five years by the national average or the average rate of disposal of main cases per Judge per year in that High Court, whichever is higher.

1.2 Similarly, the required strength of Additional judges in a High Court is worked out by dividing the number of main cases pending over two years by the national average or the average rate of disposal of main cases per Judge per year in that High Court, whichever is higher.

1.3 If the disposal per Judge in the concerned High Court is below even the national average then instead of increasing the strength, the concerned High Court is required to take steps for improvement in the rate of disposal of cases. If the average disposal of concerned High Court is above the national average then increase in Judge strength is accordingly considered. The strength of Additional Judges is reviewed only if there is an increase in the arrears of the pending cases during the last 5 years and the disposal per Judge is above the national average.

2. Under Article 235 of the Constitution of India, the administrative control over the members of subordinate judiciary in the States vests with the concerned High Court and the State Government. Thus, filling up of the vacant posts of judges/magistrates at the District and Subordinate Courts is the concern of the respective High Courts and the State Governments.

2.1 The Supreme Court, in its judgment of March 21, 2002 in All India Judges Association case had directed that the existing vacancies in the Subordinate Courts at all levels should be filled, if possible latest by 31st March, 2003, in all the States.

2.2 The Central Government has been periodically urging all the State Governments /Union Territories to accord utmost priority to filling up of vacant posts of judges and magistrates. The Minister of Law and Justice has written to the Chief Justices of all High Courts and Chief Ministers of all States on 26.4.2002 for ensuring compliance of the aforesaid order of the Supreme Court dated 21st March, 2002.